



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

WACO ORTHO REHAB ASSOCIATES LLP
PO BOX 2850
BRYAN TX 77805-2850

Respondent Name

SERVICE LLOYDS INSURANCE COMPANY

Carrier's Austin Representative Box

Box Number 01

MFDR Tracking Number

M4-05-0772-01

MFDR Date Received

September 28, 2004

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "CPT 95851 is not global to office visits"... "Regarding CPT 99212-25:"... "The chiropractic manipulative treatment code included a pre-manipulation patient assessment. Additional evaluation and management services may be reported separately using the modifier '-25', if the patient's condition requires a significant separately identifiable E/M service, above and beyond the usual pre-service and post-service work associated with the procedure."... "Regarding CPT code 97110:"... "The charges for physical medicine treatments do not exceed the thresholds outlined in TWCC QRL # 20010612"... "Regarding CPT code 97124:"... "This office billed correctly per TWCC guidelines"... "Regarding CPT code 99070"... "E1399"... and "A4594:"... "All supplies are reasonable and necessary in the treatment of this patient for the work-related injury."

Amount in Dispute: \$7,062.49

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "In summary, Corvel has audited Dr. Mordecai's bills per the new Medical Fee Guidelines set forth by TWCC, and therefore, no additional payment will be recommended."

Response Submitted by: XXXX

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
October 13, 2003 to December 30, 2003	Professional Services	\$7,062.49	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.1 defines words and terms related to medical benefits.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, sets out the reimbursement guidelines for facility services provided in an outpatient acute care hospital.

4. 28 Texas Administrative Code §134.1 sets out general provisions related to use of the fee guidelines.
5. Former 28 Texas Administrative Code §134.202 sets out fee guidelines for professional medical services.
6. Texas Labor Code §413.011 sets out provisions regarding reimbursement policies and guidelines.
7. This request for medical fee dispute resolution was received by the Division on September 28, 2004. Pursuant to 28 Texas Administrative Code §133.307(g)(3), effective January 1, 2003, 27 *Texas Register* 12282, applicable to disputes filed on or after January 1, 2003, the Division notified the requestor on October 5, 2004 to send additional documentation relevant to the fee dispute as set forth in the rule.
8. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - F – Fee Guideline MAR Reduction
 - G – Unbundling
 - M – No MAR
 - NU – New Equipment
 - R38 – Included in another billed procedure
 - R79 – CCI; Standards of Medical Practice
 - R80 – CCI; HCPCS/CPT Procedure Code Definition
 - R84 – CCI; Most Extensive Procedures
 - R88 – CCI; Mutually Exclusive Procedures
 - 510 – Payment Determined

Issues

1. Are the disputed services subject to a contractual agreement between the parties to this dispute?
2. What is the applicable rule for determining reimbursement for the disputed services?
3. What is the recommended payment amount for the services in dispute?
4. What is the applicable rule for reimbursement of items and services for which no payment or relative value has been established?
5. Did the requestor support that additional reimbursement is due for procedure code E1399?
6. Is the requestor entitled to additional reimbursement?

Findings

1. Review of the submitted documentation finds no information to support that the disputed services are subject to a contractual agreement between the parties to this dispute.
2. This dispute relates to professional medical services with reimbursement subject to the provisions of former 28 Texas Administrative Code §134.202, effective January 5, 2003, 27 *Texas Register* 4048 and 12304, which requires that “(b) For coding, billing, reporting, and reimbursement of professional medical services, Texas Workers' Compensation system participants shall apply the Medicare program reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies in effect on the date a service is provided with any additions or exceptions in this section.” §134.202(c) further requires that to determine the maximum allowable reimbursements (MARs) for professional services, system participants shall apply the Medicare payment policies with minimal modifications as provided in the rule.
3. Reimbursement for the disputed services is calculated as follows:
 - Per Medicare policy, procedure code 95851 is unbundled. This procedure is a component service of procedure code 99213 performed on the same date(s). Payment for this service is included in the payment for the primary procedure. Separate payment is not recommended.
 - Per Medicare policy, procedure code 97110 is mutually exclusive to procedure code 97150 billed on the same claim. These two codes may not be reported together on the same date of service. Separate payment is not recommended.
 - Per Medicare policy, procedure code 97124 is unbundled. This procedure is a component service of both procedure codes 97150 and 98940 performed on the same date(s). Payment for this service is included in the payment for the primary procedure. Separate payment is not recommended.
 - Per Medicare policy, procedure code 99070 represents bundled items. The cost of supplies (e.g., theraband, hand putty, electrodes, etc.) used in furnishing covered therapy is included in the payment for the procedure codes billed by the physical therapist, and are, therefore, not separately payable. Supplies billed as “other than incidental to an office visit” (CPT code 99070) are not reimbursed unless identified with Level II/HCPCS or level III/Local Codes. No reimbursement is recommended.

- Procedure code 99212-25 represents the evaluation and management of an established patient and requires at least two of these three key components: a problem focused history; a problem focused examination; and straightforward medical decision-making. Review of the submitted SOAP notes finds that the required elements of the service were not documented. This service is not supported as billed. No reimbursement is recommended.
 - Per Medicare policy, procedure code A4595 represents bundled supplies. Review of the submitted documentation finds that the consumable TENS supplies were reusable, self-adhesive electrodes supplied to carry out the application of Electrical Stimulation therapy performed on the same date of service. Per Medicare policy, electrodes utilized for electrical stimulation are global to the service and included in the payment for the primary procedure. Separate reimbursement is not recommended.
4. Additionally, the health care provider billed for procedure code E1399, which represents a product or service for which CMS or the Division had not established a relative value unit and/or a payment amount during the disputed dates of service. Therefore, per §134.202(c)(6), the carrier shall assign a relative value, which may be based on nationally recognized published relative value studies, published commission medical dispute decisions, and values assigned for services involving similar work and resource commitments. 28 Texas Administrative Code §133.1(8), effective July 15, 2000, 25 *Texas Register* 2115, defines fair and reasonable reimbursement as “reimbursement that meets the standards set out in §413.011 of the Texas Labor Code, and the lesser of a health care provider's usual and customary charge, or . . . the determination of a payment amount for medical treatment(s) and/or service(s) for which the [Division] has established no maximum allowable reimbursement amount.” 28 Texas Administrative Code §134.1, effective May 16, 2002, 27 *Texas Register* 4047, requires that “Reimbursement for services not identified in an established fee guideline shall be reimbursed at fair and reasonable rates as described in the Texas Workers' Compensation Act, §413.011.” Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.
 5. Per former 28 Texas Administrative Code §133.307(g)(3)(D), effective January 1, 2003, 27 *Texas Register* 12282, applicable to disputes filed on or after January 1, 2003, if the dispute involves health care for which the Division has not established a maximum allowable reimbursement, the requestor is required to provide “documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement” in accordance with §133.1 and §134.1. Review of the submitted documentation finds that:
 - The requestor has not articulated a methodology under which fair and reasonable reimbursement should be calculated.
 - The requestor did not submit documentation to support that payment of the amount sought is a fair and reasonable rate of reimbursement for procedure code E1399.
 - The requestor did not support that payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.

The request for additional reimbursement for procedure code E1399 is not supported. Thorough review of the submitted documentation finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

6. The total recommended reimbursement for the services in dispute is \$0.00. No additional payment can be recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	Grayson Richardson	July 17, 2013
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.